

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF MARYLAND
(Greenbelt Division)

In re:) Case No: 13-20626-TJC
RICHARD F. KLINE, INC.) Chapter 11
Debtor.)
RICHARD F. KLINE, INC.,) Adversary Proceeding No. _____
7700 Grove Road)
Frederick, MD 21704)
Plaintiff,)
v.)
LIBERTY MUTUAL INSURANCE COMPANY)
175 Berkeley Street)
Boston, MA 02116)
SAFECO INSURANCE COMPANY OF)
AMERICA)
Interchange Corporate Center)
450 Plymouth Road, Suite 400)
Plymouth Meeting, PA 19462-1644)
BB&T FREDERICK UNDERWRITERS)
7200 Bank Court)
Frederick, MD 21705)
and)
BB&T INSURANCE SERVICES, INC.)
3605 Glenwood Avenue)
Raleigh, NC 27612)
Defendants.)

Serve also:

Liberty Mutual Insurance Company
c/o David H. Long, CEO
175 Berkeley Street
Boston, MA 02116

Liberty Mutual Insurance Company
c/o Douglas R. Gooding, Esq.
Choate Hall & Stewart LLP
Two International Place
Boston, MA 02110

Safeco Insurance Company of America
c/o Matthew Nickerson, President
175 Berkeley Street
Boston, MA 02116

Safeco Insurance Company of America
c/o George J. Bachrach, Esq.
Michael A. Stover, Esq.
Jason R. Potter, Esq.
Wright, Constable & Skeen, LLP
100 North Charles Street, 16th Floor
Baltimore, MD 21201

BB&T Frederick Underwriters
c/o Ray Ramsburg, III, CEO
7200 Bank Court
Frederick, MD 21705

BB&T Insurance Services, Inc.
c/o The Corporation Trust Incorporated,
Resident Agent
351 West Camden Street
Baltimore, MD 21201

BB&T Insurance Services, Inc.
c/o Richard D. London, Esq.
8555 16th Street, Suite 720
Silver Spring, MD 20910

**COMPLAINT TO DETERMINE VALIDITY, PRIORITY, AND EXTENT
OF LIEN AND FOR TURNOVER OF PROPERTY TO THE ESTATE**

COMES NOW Richard F. Kline, Inc. (“Debtor”), by and through its undersigned counsel, Stinson Leonard Street LLP, successor by merger to Stinson Morrison Hecker LLP, and states its Complaint to Determine Validity, Priority, and Extent of Lien and for Turnover of Property to the Estate as follows:

PARTIES

1. Richard F. Kline, Inc. (“Debtor”) is the debtor-in-possession in the above captioned Chapter 11 bankruptcy case.
2. Liberty Mutual Insurance Company is registered in and conducts business in the State of Maryland.
3. Safeco Insurance Company of America is a Liberty Mutual company and is registered in and conducts business in the State of Maryland.
4. BB&T Frederick Underwriters is registered in and conducts business in the State of Maryland and is owned by BB&T Insurance Services, Inc.
5. BB&T Insurance Services, Inc. is registered in and conducts business in the State of Maryland.

JURISDICTION

6. This action arises out of and relates to the Chapter 11 case of Richard F. Kline, Inc., bankruptcy case no. 13-20626-TJC pending before this Court. This Court has jurisdiction over this Adversary Proceeding pursuant to 28 U.S.C. §§ 151, 157, 1334 and 11 U.S.C. §§ 541 and 542.
7. This is a core proceeding under 28 U.S.C. § 157(b)(2)(A), (E), and (K).
8. Venue is proper in this Court pursuant to 28 U.S.C. § 1409.

STATEMENT OF FACTS

9. On June 20, 2013 (the "Petition Date"), the Debtor filed a voluntary petition for relief under Chapter 11 of the Bankruptcy Code and continues to operate its business as a debtor-in-possession.

10. On February 4, 2014, counsel for Liberty Mutual Insurance Company and its affiliates (collectively, "Liberty") informed the Debtor that a net return of \$60,629.04 ("Funds") is due from Liberty. *See* letter attached hereto as Exhibit A.

11. Liberty completed an audit on the October 1, 2012- July 12, 2013 Richard F. Kline, Inc. policies which were on "agency bill" with BB&T Frederick Underwriters.

12. The Liberty audit indicated that a net return of \$60,629.04 is due from Liberty.

13. The audited policies relate at least in part to the pre-petition period.

14. Liberty is currently holding the Funds and awaiting joint instructions from the parties or a court order directing where the payment should be sent.

15. None of the defendants have filed a UCC-1 financing statement for the Funds.

16. The Funds are property of the bankruptcy estate pursuant to 11 U.S.C. § 541.

COUNT I – DETERMINE VALIDITY, PRIORITY, AND EXTENT OF LIEN

17. The Debtor realleges and reincorporates Paragraphs 1 through 16 as if set forth in full herein.

18. Maryland law and Bankruptcy Rule 7001 govern the treatment, validity and priority of liens in bankruptcy cases.

19. None of the defendants can demonstrate that it has a valid lien on the Funds.

20. Defendants cannot assert an invalid lien against the Funds.

WHEREFORE Plaintiff, Richard F. Kline, Inc., Debtor, respectfully requests that this Court enter Judgment in favor of the Debtor and against Defendants as follows as to Count - I:

- a. holding that any lien asserted by Liberty Mutual Insurance Company, Safeco Insurance Company of America, BB&T Frederick Underwriters, or BB&T Insurance Services, Inc. against the Funds is invalid;
- b. holding that any lien asserted by Liberty Mutual Insurance Company, Safeco Insurance Company of America, BB&T Frederick Underwriters, or BB&T Insurance Services, Inc. against the Funds does not attach to the Funds in this case;
- c. awarding Debtor costs and legal fees; and
- d. granting such other relief as this Court deems just and equitable.

COUNT II- TURNOVER OF PROPERTY TO THE ESTATE
11 U.S.C. § 542(b)

21. The Debtor incorporates paragraphs 1 through 20 of this Complaint as if fully set forth at length herein.
22. A net return of \$60,629.04 ("Funds") is due from Liberty.
23. Liberty is currently holding the Funds.
24. The Funds are property of the bankruptcy estate pursuant to 11 U.S.C. § 541.
25. Pursuant to 11 U.S.C. § 542(a), "... an entity, other than a custodian, in possession, custody, or control, during the case, of property that the trustee may use, sell, or lease under section 363 of this title, or that the debtor may exempt under section 522 of this title, shall deliver to the trustee, and account for, such property or the value of such property, unless such property is of inconsequential value or benefit to the estate."

WHEREFORE, Plaintiff, Richard F. Kline, Inc., Debtor, respectfully requests that this Court enter Judgment in favor of the Debtor and against Defendants as follows as to Count - II:

- a. Ordering Liberty Mutual Insurance Company to turn over all of the funds being held in the amount of \$60,629.04 to the Debtor; and
- b. granting such other relief as this Court deems just and equitable.

Dated: July 17, 2014

Respectfully submitted,

/s/ Janet M. Nesse
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